

NEW YORK TIMES

9 JAN 76

Congress and Executive Secrecy

By DAVID E. ROSENBAUM

Special to The New York Times

WASHINGTON, Jan. 8 —

What is the responsibility of members of Congress who obtain confidential information about United States foreign policy? Must they keep the information secret at all costs? Or are there circumstances in which they are morally and ethically bound to make it public? Such questions go to the heart of the American system of representative democracy. They are being raised with increasing frequency as Congress, in the aftermath of the Vietnam war and the scandals in the intelligence agencies, attempts to assert broader influence over the conduct of foreign affairs.

Following reports this week that the Central Intelligence Agency had begun making payments to anti-Communist politicians in Italy, Ron Nessen, President Ford's press secretary, and William E. Colby, Director of Central Intelligence, said, in effect, that if Congress wanted continued access to secrets, it must learn to keep its mouth shut.

Colby Cites New Law

In a television interview this morning, Mr. Colby said that a new law required his agency to report on its activities to six different committees of Congress. It was but one of several laws enacted in the last three years that were designed to improve Congressional oversight of foreign policy.

"Almost everything that's been reported to those six committees has been exposed in the press," Mr. Colby said.

His complaint was well founded in the sense that Congress has not kept many of the confidences of the Ford Administration. Details of the C.I.A.'s operations in Angola and Italy and the text of the United States-Israeli accord on Sinai found their way into public print shortly after they were told to Congress.

The Senate Select Committee on Intelligence published its report on political assassinations despite the pleas of the Administration

Ethics Discussed in Release of Data on Foreign Policy

administration that it keep under wraps material that it had given it in confidence.

Nonetheless, a check of many senators and representatives today did not turn up one who felt that the security of the United States had been seriously compromised by the disclosures.

The members of Congress generally agreed on two points.

First, they said, some foreign policy information given to Congress must, for the national good, be kept from the public. No member of Congress would argue, for example, that the public should have been given details of the Manhattan Project, which led to the development of the atomic bomb in World War II.

Too Many Secrets

On the other hand, there was a consensus that much too much information had been kept secret. In an open society, many said, the American people must know how their leaders are conducting foreign affairs.

There was wide disagreement, however, on whether members of Congress were bound to keep secret everything that the Administration said should be kept secret.

At one extreme, Representative F. Edward Hebert, a Louisiana Democrat, said, "To me, everything's confidential until it's released by the man who gave it to me."

At the other extreme, Senator Alan Cranston, Democrat of California, said:

"Members of Congress should not feel bound by things improperly made secret. If they think something is very wrong, they have a responsibility to get the information out."

Representative Wayne L. Hays, Democrat of Ohio, who is a member of the Oversight Subcommittee on Foreign Affairs, said that his first responsibility was to try to change established procedures

that he did not approve of. But, "if all else failed," Mr. Hays said, "and if what was going on was really, really heinous, then I think I have an obligation to go public with it."

Several other members of Congress from both parties agreed with Mr. Hays's position that, in extreme circumstances, it was permissible to violate a confidence.

Members Have Veto

The difficulty with such a view, however, as many members acknowledged, is that it gives each individual senator and representative a veto over every aspect of American foreign policy.

But Mr. Cranston argued that "the price you're paying for the openness is worth it, because the price you pay for secrecy is greater—like Vietnam."

All the theory aside, the fact is that Mr. Hays is right when he says "Congress is as leaky as a sieve."

It did not use to be that way. Experienced news reporters say that in years past it was unheard of for a member of the Senate of Foreign Relations Committee, for example, to disclose confidential information.

What happened was that Congress eventually became embarrassed by its ignorance of the conduct of the war in Southeast Asia. The situation was exacerbated by the attempts of the Nixon Administration to cover its actions with a cloak of national security. Gradually, senators and representatives began to press for more information on foreign policy.

Once they got the information, many of them, especially Democrats, decided that a good deal was being withheld from the public by the Republican Administration for purely political reasons. It is not surprising, that determination having been made, that senators and representatives became less inclined to let the President and his assistants decide what should be made public and what should not.